

**STORAGE NAME:** h0017B.frc.doc  
**DATE:** October 23, 2001

**HOUSE OF REPRESENTATIVES**  
**FISCAL RESPONSIBILITY COUNCIL**  
**ANALYSIS**

**BILL #:** HB0017B  
**RELATING TO:** Transportation Economic Stimulus  
**SPONSOR(S):** Representative(s) Russell  
**TIED BILL(S):**

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) FISCAL RESPONSIBILITY COUNCIL
  - (2)
  - (3)
  - (4)
  - (5)
- 

**I. SUMMARY:**

Florida is facing an estimated \$1.3 billion shortfall in budgeted revenues in the current fiscal year, and a bleaker economic outlook next fiscal year, in large part because of the downturn in tourism and consumer confidence after the September 11, 2001, terrorist attacks and subsequent events.

HB 17-B proposes several changes to Florida's transportation statutes as a way of providing economic stimulus to Florida's economy.

The legislation raises the debt service cap on the Department of Transportation's right-of-way and bridge construction bonds from \$135 million to \$200 million; makes more types of transportation construction projects eligible for the expedited design-build contract process; and provides flexibility in how airports may use their state aviation grants through June 30, 2003.

The proposed changes to chapters 206 and 337, F.S., will enable the Department of Transportation (DOT) to fully implement its portion of the Governor's economic stimulus package. DOT is accelerating 62 projects, totaling nearly \$668 million, from its Five-Year Work Program. DOT expects to let the contracts for many of these projects by April 2002, and production phases are expected to begin soon after. The law changes will expedite all phases of these transportation projects, which according to the Governor's staff may create up to 28,000 new jobs and put millions of dollars into Florida's economy.

Proposed changes to s. 332.007, F.S., will allow DOT to redirect about \$84.3 million in FY 01-02 aviation grants to many of the state's publicly owned, public-use airports for security, operation, and maintenance expenditures, at those airports' request.

The bill's sponsor is proposing a strike-everything-after-the-enacting clause amendment to make mostly technical and clarifying changes to the original language.

HB 17-B takes effect upon becoming law.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |                             |   |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Right-of-Way and Bridge Construction Bond program

Section 206.46(2), F.S., authorizes that a maximum of 7 percent of the total revenues deposited in the State Transportation Trust Fund be transferred to the Right-of-Way Acquisition and Bridge Construction Trust Fund to pay debt service on bonds issued to buy right-of-way and to build or repair bridges. The program allows DOT to purchase right-of-way several years in advance of actual construction, thus avoiding the estimated 15 percent annual escalation in property values. These bonds are repayable primarily from state motor fuel and diesel fuel taxes, and are secured by the full faith and credit of the State of Florida. DOT must request that the Division of Bond Finance sell the bonds, and the State Board of Administration, comprised of the Governor, the Comptroller and the State Treasurer, has the final approval pursuant to s. 9, Art. XII of the Florida Constitution.

Typically, 75 percent of the bond proceeds are spent to acquire right-of-way.

The state law also specifies that no more than the amount actually needed to pay debt service, up to a maximum of \$135 million, shall be transferred. In fiscal year 2000-2001, 7 percent of the State Transportation Trust Fund revenues equaled \$139 million; the actual debt service on bonds to acquire right-of-way and build bridges was \$59.3 million. However, DOT financial projections indicate that by fiscal year 2006-2007, the annual debt service payment will be \$139.5 million, which exceeds the \$135 million statutory cap.

Also, there are eight projects among the 62 in the Governor's Economic Stimulus plan for which additional right-of-way must be acquired. Accelerating right-of-way purchase means additional bond revenues than projected may be needed in later years.

Aviation Funding

Florida has 19 commercial service airports, 112 general aviation airports (GAA), and an estimated 700 privately owned airports and airparks. According to information compiled by DOT's Aviation Office, airports and related aviation activities support more than 745,000 jobs; provide more than \$16 billion in payroll; and generate more than \$56 billion in annual economic activity.

Florida's public airports receive a combination of federal, state and local-government funds, as well as revenues generated by fees imposed on airlines and on airport parking and concessions.

Airports apply directly to the Federal Aviation Administration for federal funding, and, where applicable, apply to DOT to help with the local match. Typically, the FAA grant pays for 50 percent of an approved project, and DOT and the local airport each contribute 25 percent. Because of the FAA emphasis on commercial-service airports, DOT tries to share as much state aviation funds as possible with the GAAs.

The primary source of state aviation funds is the aviation fuel tax, which in fiscal year 2000 generated \$77 million. Of that amount, \$58 million actually went to fund DOT's aviation program; \$13 million was rebated to airlines with in-state employees, pursuant to s. 206.9855, F.S., and the rest paid to the state's General Revenue Service Charge and other administrative costs.

DOT's aviation program, as part of the agency's Public Transportation Program, also receives State Transportation Trust Fund Revenues, as well as federal aviation funds that vary from year to year.

Pursuant to s. 332.007, F.S., DOT's aviation grants can only be spent on capital improvements. The improvements must be consistent with the Florida Aviation System Plan, which is updated every 10 years.

In late September, the Florida Association of Airport Managers reported that 10 of its member airports lost a collective \$15 million in the first week following the terrorist attacks, and its concessionaires and other aviation-dependent businesses lost uncounted millions of dollars. A later survey coordinated by Enterprise Florida, Inc., which polled representatives of various sectors of the state's aviation industry, indicated a projected \$735 million in lost revenues in the 30 days following the attacks.

Several airports have contacted DOT's Aviation Office to say that planned capital improvement projects – such as new runways or hangars to handle projected growth – could be delayed, because they have more pressing needs, such as implementation of new federal security requirements. Some airports also have expressed concerns that declining revenue from airlines, parking, and other concessionaires, is affecting their ability to pay general operating and maintenance expenses.

#### Design-Build Contracts

Chapter 337, F.S., describes the Department of Transportation's (DOT's) contracting and acquisition processes. In particular, s.337.107, F.S., gives DOT the authority to enter into contracts, using state procurement guidelines, to purchase right-of-way or related services for transportation corridors and facilities. Section 337.11, F.S., governs DOT's overall contracting authority; one of its provisions prohibits the advertisement of bids and the publication of bid notices for projects until title to the affected right-of-way has either been vested in DOT or a local government, and all railroad crossing and utility agreements have been executed.

Traditionally, individual phases of a transportation project are separately bid and awarded. Florida's DOT is among a handful of state transportation agencies that are awarding contracts to one provider who agrees to perform multiple project tasks. In Florida, these are called "design-build contracts," because the bidders agree to design and build the entire project. DOT is examining the feasibility of expanding this type of contract to include even more activities, but lacks specific statutory authority, pursuant to s. 337.11(7)(a), F.S., to combine more than the design and construction phases of buildings (including rest areas and weight stations), a major bridge, or a railroad corridor. In fiscal year 2000-2001, DOT has programmed in its budget to spend \$349.4 million on design-build projects, primarily to widen or replace bridges.

C. EFFECT OF PROPOSED CHANGES:

Right-of-Way and Bridge Construction Bond program

The bill amends s. 206.46(2), F.S., to raise the cap on DOT's maximum debt service on right-of-way acquisition and bridge construction bonds to \$200 million. This statutory change does **not** require DOT to bond up to its debt service cap; it only gives DOT more "room" within the cap. To reiterate, the Florida Division of Bond Finance issues DOT's right-of-way and bridge construction bonds, and only upon approval of the State Board of Administration.

Aviation Funding

The bill amends s. 332.007, F.S., to establish a temporary process by which aviation grant projects listed in the Five Year Work Program may be delayed and the funds instead redirected to pay for security improvements or to address economic impacts resulting from the September 11, 2001, terrorist attacks.

Under HB 17-B, DOT would be authorized to provide operating and maintenance assistance to publicly owned, public-use airports, which includes the commercial service airports and the GAAs. Airports that already have projects in the current adopted work program may request that DOT redirect those funds for financial assistance to meet enhanced federal security requirements, or to meet eligible operating and maintenance costs. Airports seeking the change in use of funds must submit an "expenditure plan" to DOT as part of their request; DOT must approve the plan before releasing the funds.

Any additional DOT aviation funds that are not otherwise committed also may be made available for this airport security or operation/maintenance assistance.

The bill also specifies that DOT may fund up to 100 percent of eligible costs that are not funded by the federal government.

This provision expires on June 30, 2003.

Design-Build Contracts

The bill amends s. 337.107, F.S., to add right-of-way services to those activities that can be included in a design-build contract.

Also, s. 337.11(7)(a), F.S., is amended to make all types of transportation projects, except for resurfacing and minor bridge projects, eligible to be let as a design-build contract at DOT's discretion. Also, DOT will be able to advertise and even award design-build contracts despite the fact that not all of the right-of-way or easements necessary to complete the project have been deeded to the state or to a local department entity. However, construction can not begin on any portion of the design-build project until the title to all necessary right-of-way has vested in DOT or a local government, and all railroad crossing and utility agreements have been executed.

Generally, DOT anticipates these changes will expedite projects by combining a number of different activities under one contract. Saving time also saves money; for example, better coordination of right-of-way acquisition and project design will result in the necessary right-of-way being identified and acquired as quickly as possible, before land costs rise.

More specifically to the Governor's economic stimulus plan, DOT likely would be unable to let 28 of the 62 identified projects within the next six to eight months without expedited right-of-way acquisition and expanded design-build contracting ability. These 28 projects total nearly \$425 million of the \$668 million of identified projects.

**D. SECTION-BY-SECTION ANALYSIS:**

**Section 1:** Amends s. 206.46, F.S. Raises the annual debt service cap on DOT's right-of-way and bridge construction bond program from \$135 million to \$200 million.

**Section 2:** Amends s. 332.007, F.S. Authorizes DOT to provide operational and maintenance assistance to publicly owned public-use airports. Specifies that such assistance shall be for the purpose of complying with new federal security requirements or addressing economic impacts that are a consequence of the September 11, 2001, terrorist attacks against the United States. Allows airports which have projects in the current adopted work program to request that DOT change the project purpose.

**Section 3:** Amends s. 337.107, F.S. Allows DOT to include right-of-way acquisition and other related services as part of a design-build contract.

**Section 4:** Amends s. 337. 11, F.S. Allows DOT to combine the design and construction phases of more types of transportation projects. Allows DOT to let a single contract that includes right-of-way services, design and construction of a transportation project. Clarifies that resurfacing and minor bridge projects won't be subject to the design-build contracts, but instead may be handled through DOT's innovative contract programs. Reiterates that no construction shall begin on any part of a transportation project until all the necessary right-of-way and easements have been vested in the state or a local government, and that all railroad crossings and utility agreements have been executed.

**Section 5:** Specifies bill takes effect upon becoming law.

**III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

**1. Revenues:**

Indeterminate. See III.D. below.

**2. Expenditures:**

Partly as a result of HB 17-B, DOT will commit to spending an estimated \$668 million over the next several months, by accelerating 62 transportation projects originally scheduled two or more years in the future. It is unknown how much of the \$668 million will be expended in the current fiscal year that ends June 30, 2002.

The \$84.3 million in aviation grants already was committed to be spent this fiscal year; under the provisions of HB 17-B, those funds may be spent by airports for different purposes.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

**1. Revenues:**

None directly. However, the transportation-related projects facilitated by HB 17-B are expected to have some positive economic spillover in local communities.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

It is anticipated that a majority of the \$668 million in accelerated transportation construction projects will be awarded to private-sector road and bridge contractors. According to Governor Jeb Bush's "Stimulating Florida's Economy" report issued earlier this month, accelerating these transportation projects could create as many as 28,000 jobs.

The potential reallocation of \$84.3 million in aviation grants from capital projects to operating and maintenance costs may hurt the aviation construction industry. However, it also is likely to benefit other types of private businesses, such as manufacturers of security equipment, providers of security-related services, and other service-oriented industries.

D. FISCAL COMMENTS:

Sections 1, 3 and 4 of HB 17-B are intended to create jobs, increase sales of goods, and spur other economic activity related to transportation-related construction. Section 2 of the bill is intended to provide many of Florida's airports with interest-free grants to pay for security improvements and operating and maintenance expenses, in lieu of capital improvements, in an effort to keep airports open to business travelers and vacationers.

The legislation thus has the potential to generate state sales tax and other revenues for Florida's coffers, as well as create jobs, which reduces unemployment and public assistance claims. However, no reliable estimates of the economic impact of HB 17-B can be made.

In general, DOT cites figures that indicate for every \$1 spent on transportation projects, \$2.50 is generated in economic benefits.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The mandates provision is not applicable to an analysis of HB 17-B because the bill does not require cities or counties to expend funds, or to take actions requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

HB 17-B does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

HB 17-B does not reduce the percentage of a state tax shared with counties or municipalities.

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V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

HB 17-B raises no constitutional issues.

B. RULE-MAKING AUTHORITY:

HB 17-B does not create or expand DOT's rulemaking authority.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Not applicable.

VII. SIGNATURES:

FISCAL RESPONSIBILITY COUNCIL:

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